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C O N F I D E N T I A L SECTION 01 OF 03 PHNOM PENH 000564

SIPDIS

STATE FOR EAP/MLS, D, P, DRL, IO, S/WCI

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TAGS: [PREL](#) [PGOV](#) [KJUS](#) [PHUM](#) [CB](#)

SUBJECT: KHMER ROUGE TRIBUNAL: SOK AN SIGNS AGREEMENT ON  
ANTI-CORRUPTION MECHANISM

REF: A. PHNOM PENH 343  
[1](#)B. PHNOM PEN 333  
[1](#)C. PHNOM PENH 316  
[1](#)D. PHNOM PENH 264

Classified By: AMBASSADOR CAROL A. RODLEY FOR REASONS 1.4 (B, D)

[1](#)1. (C) SUMMARY: Using modern-day electronic shuttle diplomacy along with the classic variety, Ambassador at Large for War Crimes Issues Clint Williamson persuaded Deputy Prime Minister Sok An to sign an agreement with the United Nations on an anti-corruption mechanism at the Extraordinary Chambers in the Courts of Cambodia (ECCC), as the Khmer Rouge Tribunal is called. The matter will be concluded when Ambassador Williamson journeys on the last leg of his diplomatic mission and secures on August 11 the already promised signature of UN Office of Legal Affairs (UN/OLA) Assistant Secretary General Peter Taksoe-Jensen. The agreement sets the stage for an Independent Counselor who will have the mandate to review allegations of salary kickbacks at the court (which plagued the early days of the court's administration but have not been reported in almost a year) or other corrupt acts. As the first trial at the ECCC of a torture center head moves toward a conclusion this fall, the Khmer Rouge Tribunal (KRT) administration can now turn its attention to more substantive issues such as court efficiency, quickening the tempo of the second case against four KR leaders, public outreach, and victim participation. As it does so, it is now likely that the Khmer Rouge Tribunal is Cambodia's first corruption-free court. END SUMMARY.

[1](#)2. (C) Ambassador Williamson, accompanied by Ambassador Rodley, called on DPM Sok An August 3 to break a deadlock in negotiations with UN/OLA's Taksoe-Jensen that seemed to be moving forward in late May when criteria and terms of reference were agreed upon, but stalled over arriving at a suitable candidate. Negotiations between ECCC Deputy Director Knut Rosandhaug (UN) and ECCC Director Tony Kranh (Cambodia) could not reach agreement on Cambodia accepting a list of candidates for the position, with the RGC insisting that the Cambodian nominees were the only starting point. Knowing that at least two additional reputable Cambodians of stature were candidates who met the agreed criteria (Ref A), Taksoe-Jensen sought assurance that, first he could nominate names and, second, that he and Sok An would then together review those names before arriving at a candidate who "is acceptable to both the Royal Government of Cambodia (RGC) and the United Nations" and chosen in consultation with the group of friends of the ECCC.

13. (C) Ambassador Williamson congratulated Sok An on the many successes of the KRT, introduced the UN's proposed changes to the UN-RGC agreement, and urged Sok An to agree to the UN request to submit names which would be considered jointly. Sok An readily agreed to suggested textual amendments, noting that since May he had been in general agreement with the idea of an Independent Counselor and now was concentrating on making the KRT even more of a success.

Concerns About Asian "Self-Image"; Praise for Smooth Process  
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14. (C) When asked to agree to a wider pool of names for the selection process Sok An noted that, in the end, those who were not selected would lose face if their names were released publicly. "It is not good for the others to fail," he noted, even though it is not a criticism. We can discuss the candidates "one by one" he noted, but the others would be frustrated because it would be a blow to their "amore propre" or their "self-image" if they were not picked. Sok An agreed that he and Taksoe-Jensen could review a group of names one by one, but only the person selected should have the name revealed. Ambassador Williamson noted that it was not the intention of the selection exercise to embarrass anyone and gave assurances that he would recommend to the UN the process remain a confidential one. In that case, Sok An said that he did not see any further problems. After agreeing to speak to

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Taksoe-Jensen in a teleconference and delegating the remainder of the negotiation on the anti-corruption mechanism to ECCC Director Tony Kranh, Sok An purred at the end of the meeting that things were going along very smoothly and that people could see that the KRT was now functioning well in both its administrative and judicial functions.

15. (C) Later the same day, Ambassador Williamson briefed the core Friends of the ECCC on the progress made to date. France hosted the meeting attended by Friends co-chair Japan, as well as the UK, Australia, Germany and the EU. Discussion of the candidates mooted to date ensued, including National Bank of Cambodia Deputy Governor Neav Chanthana, Supreme Court Justice Kim Sotahvy, and Auditor General of Cambodia Uth Chhorn. Ambassador Rodley urged the Friends to endorse a joint statement of support for the new anti-corruption mechanism, once it was agreed upon, as well as the individual selected for the position. Ambassador Williamson added that, having been consulted on the process and candidacies, the donors were in a position to comment on the anti-corruption mechanism and their support would help conclude the process as well.

16. (C) Japanese Ambassador Katsuhiko Shinohara said that after a concerted effort the problem of handling corruption allegations at the KRT had come to a very good conclusion. If the agreement were finalized and accepted by the UN he noted that Japan would be happy to support a joint statement. Other donors nodded in agreement. A later question by German Ambassador Frank Mann about inclusion in the agreement of protections for whistle-blowers was answered to his satisfaction. UK Ambassador Andrew Mace queried about the practical side of budgetary support for the proposed Independent Counselor, which was proposed to be shared. Donors were in agreement that the "function" was not a position and should require no salary. However, they acknowledged that the costs associated with following up on any allegations would be borne equally by the RGC and UN, as stated in the agreement. France agreed to circulate a draft donors' statement, which the UK noted should include a reference to the donors being consulted. (NOTE: By August 7, all donors had agreed on a final draft joint statement, which was to be shared in advance with the Cambodian side and

the UN. END NOTE.)

Teleconference

17. (C) Late on August 4 in a teleconference with Peter Taksoe-Jensen to which the U.S. team was invited, Sok An repeated his concern about the "self image" of those not selected. After an exchange which noted the candidates, Sok An and Taksoe-Jensen agreed that Auditor General Uth Chhorn would be named as the new Independent Counselor. Sok AN stated that, after a final review of the UN-RGC "Agreement to Establish an Independent Counselor at the ECCC", he would sign the documents and then, having accepted Ambassador Williamson's offer to carry the documents to New York, he would look forward to Taksoe-Jensen's also signing the documents. (Post will forward to the desk and S/WCI an electronic copy of the Agreement, an Annex naming Uth Chhorn, and a UN-RGC Joint Statement.) Most of the conversation with Taksoe-Jensen focused on other personnel issues, including the appointment of a Special Advisor to UNSYG in UN/OLA who would handle international tribunal issues.

Signature Secured, Public Announcement Planned

18. (C) After some last-minute technical changes to the documents, ECCC Director Tony Kranh passed the signed Agreement and Annex to Ambassador Williamson on August 7. They also reached agreement that once signed by Taksoe-Jensen on August 11, the UN would make an announcement at the UN at 8 p.m. that day in New York. Cambodian Council of Ministers Spokesman Phay Siphan would simultaneously issue the same joint statement at 7 a.m. on August 12, Phnom Penh time. Thereafter, Ambassador Williamson plans to meet with senior leaders in key NGO's that have been engaged on ECCC issues to brief them on the anti-corruption mechanism that has been

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established.

COMMENT

19. (C) Ambassador Williamson clearly faced some bumps in the road to reaching agreement on a credible anti-corruption mechanism for the KRT, but once Sok An had personally been reassured about the sincerity of the UN in this endeavor, his assent was certain. The ease with which Sok An understood the remaining issues of the anti-corruption mechanism reinforces our perception that a new UN/OLA Special Advisor who can readily speak to Sok An about KRT issues is of paramount importance to the ongoing success of the court. Key to the success of this position will be winning the trust of the Cambodian side. Our embassy driver confirmed to us that ECCC drivers told him August 5 that they had not been asked to resume kickbacks since earlier last year. This is one good sign that the ECCC is now likely Cambodia's first corruption-free court. The Independent Counselor is designed to keep it that way.

110. (U) Ambassador Williamson has cleared this cable.  
RODLEY